IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 27149 of 2007(F)

PETITIONER:

NAMITHA NORBERT P., AGED 27 YEARS,
W/O.JOLLY V.ANTONY, PUTHENVEETTIL HOUSE,
KATTATHURUTH, VADAKKEKARA P.O.,
NORTH PARAVUR 683 522.

BY ADV. SRI.GEORGE ABRAHAM

RESPONDENTS:

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1. KERALA STATE FINANCIAL ENTERPRISES
LIMITED, REGD.OFFICE: BHADRATHA,
P.B.NO.510, MUSEUM ROAD, THRISSUR 680 020
REPRESENTED BY MANAGING DIRECTOR.

2. MANAGING DIRECTOR,
KERALA STATE FINANCIAL ENTERPRISES LIMITED,
REGD.OFFICE: BHADRATHA, P.B.NO.510,
MUSEUM ROAD, THRISSUR 680 020.

3. ADMINISTRATIVE OFFICER,
KERALA STATE FINANCIAL ENTERPRISES LIMITED,
REGD.OFFICE: BHADRATHA, P.B.NO.510,
MUSEUM ROAD, THRISSUR 680 020.

4. PRINCIPAL SECRETARY TO GOVERNMENT,
PERSONNEL & ADMINISTRATION,
REFORMS (RULES) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY ADV. SRI.E.K.NANDAKUMAR
BY SC SRI.A.M.SHAFFIQUE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

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W.P.(C)NO.27149 OF 2007

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Dated this the 6th day of December 2007

JUDGMENT

The petitioner's father Sebastian Norbert, while working as a Branch Manager with the first respondent died in harness on 11.2.2006. An application was filed on behalf of the petitioner for appointment under the dying in harness scheme. Apparently, the first respondent, taking note of the fact that the petitioner is a married daughter, referred the issue to the 4th respondent. The 4th respondent by Ext.P5 communication dated 19.1.2007, referred to Ext.R2(a) government order and then observed that the married daughter is excluded from the purview of the scheme for compassionate employment of the dependents of government servants. According to the government, difference is that though she is a daughter, she is not a dependent. Based on Ext.P5, the petitioner's application was rejected as evidenced by Ext.P4.

2. Several contentions have been raised by the petitioner challenging Ext.P4. Reference has been made to a decision of a Bench of this Court in ***St.Ignatius High School*** v ***State of Kerala and others*** (2005(3) ILR Kerala 666). Learned counsel for the petitioner Mr.George Abraham also refers to a communication issued by the government to the Director of Public Instructions on 19.3.2001. It

seems to suggest that a married son/daughter may also be considered for the benefit of the scheme if they were eligible, but in the said communication, it is also stated that if the applicant is a married son/daughter, their income should also be reckoned along with the income of the family of the deceased for calculating the income of the family. Learned counsel for the first respondent Mr.A.K.Jayasankar Nambiar submits that this seems to be in direct conflict with Clause 13 of Ext.R2(a) government order, and a communication issued by a Government Secretary cannot aspire to clarify a government order in terms of which are inconsistent with the Government Order itself.

4. Be that as it may, in the facts and circumstances of the case, I think it is appropriate that the government reconsiders the issue after notice to the petitioner and then takes a decision in the matter.

5. In the result, the writ petition is disposed of permitting the petitioner to move the government pointing out these aspects. If it is so, done within a period of one month from today, the government shall hear the petitioner, and if necessary, after hearing the representative of the first respondent also, take a decision thereon untrammeled by Ext.P4. Such decision shall be taken within a period of three months from the date of receipt of a copy of this judgment.

V.GIRI, JUDGE

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